IN THE HIGH COURT OF JUDICATURE
ANDHRA PRADESH
AT HYDERABAD

THE HON'BLE MR JUSTICE J.CHELAMESWAR
and
THE HON'BLE MR JUSTICE D.APPA RAO

WRIT PETITION NOS :18078, 18081 & 18092 of 2006

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Dated: 20th September 2006.

Between:

WRIT PETITION NO:18078 of 2006

M/s. Viva Granites
NSP Colony, Main Road,
Chimakurthy, Prakasam District.

..... PETITIONER

AND

The Commercial Tax Officer,
No.II (FAC), Ongole and others.

.....RESPONDENTS

WRIT PETITION NO:18081 of 2006

M/s. Viva Granites
NSP Colony, Main Road,
Chimakurthy, Prakasam District.

..... PETITIONER

AND

The Commercial Tax Officer,
No.II (FAC), Ongole and others.

.....RESPONDENTS

WRIT PETITION NO:18092 of 2006

M/s. Viva Granites

NSP Colony, Main Road,
Chimakurthy, Prakasam District.

..... PETITIONER

AND

The Commercial Tax Officer,
No.II (FAC), Ongole and others.

.....RESPONDENTS

THE HON'BLE SRI JUSTICE J.CHELAMESWAR
AND
THE HON'BLE SRI JUSTICE D.APPA RAO

W.P.NOs.18078, 18081 & 18092 OF 2006

ORAL COMMON ORDER:
(Per the Hon'ble Sri Justice J.Chelameswar)

The petitioner is a partnership firm, a registered dealer both under the A.P.G.S.T. Act and the C.S.T. Act and is an assessee on the rolls of the 1st respondent herein. The petitioner is the same in all these three writ petitions. The petitioner is engaged in the business of excavation of granite, sale of processed granite and polished granite tiles. The liability of the petitioner for payment of tax both under the A.P.G.S.T. Act and the C.S.T. Act came to be determined by the Assessing Authority with reference to the assessment years 2000-01 under the C.S.T. Act and 2001-02 both under the abovementioned enactments. The petitioner claimed certain exemptions in view of the G.O.Ms.No.117

Industries and Commercial Department dated 17-03-1993 (the details of which may not be necessary for the present purpose) and the same were accepted by the Assessing Authority. The 2nd respondent, however, proposed to revise the assessments made by the Assessing Authority with reference to the abovementioned three assessments, in exercise of the powers under Section 20(2) of the A.P.G.S.T. Act r/w Section 9(2) of the C.S.T. Act. Eventually, all the abovementioned three assessments came to be revised by the 2nd respondent. As a consequence, the petitioner is now found liable for payment of a higher amount of tax than was determined by the Assessing Authority. Aggrieved by the same, the petitioner carried the matter in three separate appeals before the Andhra Pradesh Sales Tax Appellate Tribunal. During the pendency of the said appeals, the petitioner also sought stay of recovery of the disputed tax and the said applications were rejected by the 3rd respondent by three separate orders dated 28-06-2006. Hence, the present three writ petitions.

Pursuant to the revision by the 3rd respondent, with reference to the abovementioned three assessments, the petitioner is still due to pay approximately an amount of Rs.20-50 lakhs. The total disputed tax, with reference to all the abovementioned three assessments, is approximately about Rs.42-50

lakhs. Therefore, it transpires, admittedly, that the petitioner has already paid approximately half of the disputed tax.

Heard the learned Government Pleader for Commercial Taxes.

In the circumstances, we are of the opinion that these matters can be disposed of at this stage by directing the respondents herein not to initiate any coercive steps for recovery of the balance amounts of tax due from the petitioner, pursuant to the revisionary orders referred to above, which are pending adjudication before the Andhra Pradesh Sales Tax Appellate Tribunal, until the same are disposed of.

With the above direction, all the three writ petitions are disposed of at the stage of admission.

J.Chelameswar, J

D.Appa Rao, J

20th September 2006
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